



## **CALIFORNIA STATE PERSONNEL BOARD**

801 Capitol Mall • Sacramento, California 95814

### **NOTICE OF PROPOSED ADOPTION OF REGULATIONS AND STATEMENT OF REASONS**

**California Code of Regulations  
Title 2, Administration  
Division 1, Administrative Personnel**

**DATE:** September 5, 2000

**TO:** ALL STATE AGENCIES AND EMPLOYEE ORGANIZATIONS, MEMBERS OF  
THE GOVERNOR'S CABINET

**SUBJECT: PROPOSED REGULATIONS AND GUIDELINES REGARDING UPWARD  
MOBILITY**

#### **AUTHORITY:**

Under authority established in Section 18701, Government Code, the State Personnel Board (Board) has proposed to change Title 2 of the California Code of Regulations. Government Code Sections 19401 and 19402 require State agencies and departments to establish upward mobility programs and annual upward mobility goals for employees in low-paying occupations; however, these statutes do not provide adequate procedural guidance on how to establish upward mobility goals. These proposed regulations are needed to provide the procedural guidance necessary to comply with the statutory requirements.

#### **REFERENCE:**

These regulations are proposed to implement, interpret, and/or make specific Sections 19400-19403, 19405, and 19406 of the Government Code.

#### **PUBLIC HEARING:**

Date and Time: November 1, 2000, from 1:00 p.m. to 2:00 p.m.  
Place: Auditorium  
801 Capitol Mall, Room 150  
Sacramento, California  
Purpose: To receive oral public comments about this action.

#### **WRITTEN PUBLIC COMMENT PERIOD:**

The public comment period for written comments will close October 31, 2000 at 5:00 p.m. This is to allow time for Board staff to provide copies of any written comments to Board members for their consideration at the time of the hearing. Any person may submit written comments about the proposed changes. To be considered by the Board, written comments must be received at the attention of

Ted Edwards at the State Personnel Board, P.O. Box 944201, Sacramento, CA 94244-2010, before the close of the written comment period.

**CONTACT PERSONS:**

Please direct any telephone inquiries regarding this action to Steve Unger at (916) 654-0842 or Ted Edwards at (916) 653-1276, or write to Ted Edwards at the State Personnel Board, P.O. Box 944201, Sacramento, CA 94244-2010.

**DOCUMENT RELIED UPON:**

California Civil Service Pay Scales, 50<sup>th</sup> Edition, published by the California Department of Personnel Administration.

This document is available for review during normal business hours at the State Personnel Board, 801 Capitol Mall, Sacramento, CA 95814.

**IDENTIFIED ALTERNATIVES THAT WOULD LESSEN ADVERSE IMPACT ON SMALL BUSINESSES:**

No adverse impact on small businesses is anticipated from the implementation of the proposed regulations. Therefore, no alternatives which would lessen the impact on small businesses have been identified.

**COST ESTIMATES OF PROPOSED ACTION:**

**Costs or Savings to State Agencies:**

This action proposes the adoption of new regulations for California Code of Regulations (CCR), Title 2, that are, in part, terminology that has been updated to be consistent with current terminology used for the schematic grouping of classifications in the California Pay Scales. Other definitions in the proposed regulations were developed based on a common understanding of the terminology used in the State civil service.

Currently, there are no regulations to implement the provisions of Government Code Sections 19400–19403, 19405, and 19406. These statutes alone do not provide needed procedural guidance necessary to comply with statutory requirements. The proposed regulations, and the incorporated by reference *Guidelines for Administering Departmental Upward Mobility Employment Programs*, revised July 25, 2000, will provide this guidance and help ensure that upward mobility programs are administered consistently among agencies and departments. However, no fiscal impact exists because this rulemaking action essentially codifies existing Board practices.

**Determination of Mandate :**

The Board has determined that the proposed regulations do not impose a mandate requiring reimbursement by the State pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because these regulations do not constitute a "new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution."

The proposed regulations will not require local agencies or school districts to incur additional costs in complying with the proposal. Furthermore, the California Supreme Court has established that a "program" within the meaning of Section 6 of Article XIII B of the California Constitution is one which carries out the governmental function of providing services to the public, or which, to implement a State policy, imposes unique requirements on local governments and does not apply generally to all residents and entities in the state. (*County of Los Angeles v. State of California* (1987) 43 Cal.3d 46.)

**Impact on Housing Costs:**

The proposal will not affect housing costs.

**Impact on Businesses:**

This proposal will not result in a significant adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states.

Further, these proposed regulations contain no new reporting, recordkeeping and other compliance requirements that would result from the proposed action.

**Cost Impact on Private Persons or Entities:**

The proposal will not require private persons or entities to incur additional costs in complying with the proposal.

**Costs or Savings in Federal Funding to the State:**

No impact.

**Costs or Savings to Local Agencies or School Districts Required to be Reimbursed:**

No costs to local agencies or school districts are required to be reimbursed.

**Other Nondiscretionary Costs or Savings Imposed on Local Agencies:**

This proposal does not impose nondiscretionary costs or savings on local agencies.

**ASSESSMENT:**

The adoption of the proposed regulations will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

**DETERMINATION:**

The Board must determine that no alternative considered by the Board would be more effective in carrying out the purpose for which this action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

**AVAILABILITY OF PROPOSED TEXT, ISR, AND OTHER RELATED INFORMATION:**

The text of the regulations, the Initial Statement of Reasons, and all other related information upon which this proposal is based are available upon request directed to the Board's contact person.

**AVAILABILITY OF CHANGES TO PROPOSED TEXT:**

If any substantial and sufficiently related changes are made to the text as a result of comments received during the public comment period, the Board will make the full text of the changed regulation(s) available for at least 15 days before the date the regulations are permanently adopted.

**INFORMATIVE DIGEST:**

Government Code Section 18701 authorizes the State Personnel Board (SPB) to prescribe, amend, and repeal regulations for the administration and enforcement of the Civil Service Act.

Government Code Sections 19400-19403, 19405, and 19406 enumerate the requirements in the State civil service for employee upward mobility. Section 19400 defines an upward mobility program. Section 19401 specifies that upward mobility is for employees in low-paying occupations. Section 19402 requires departments to annually establish upward mobility goals regarding the number of these employees expected to advance to entry technical, professional, and administrative positions. Section 19403 requires

the SPB to establish bridging classifications and career ladders to facilitate upward mobility. Section 19405 requires the SPB to annually report departmental upward mobility progress to the State Legislature. Section 19406 requires the SPB to develop guidelines to provide specific direction to departments for implementing their upward mobility programs.

Currently, there are no regulations to implement the provisions of Government Code Sections 19400–19403, 19405, and 19406. These statutes alone do not provide needed procedural guidance necessary to comply with statutory requirements. The proposed regulations, and the incorporated by reference *Guidelines for Administering Departmental Upward Mobility Employment Programs*, revised July 25, 2000, will provide this guidance and help ensure that upward mobility programs are administered consistently among agencies and departments.

**Document Incorporated by Reference:**

*Guidelines for Administering Departmental Upward Mobility Employment Programs*, revised July 25, 2000, published by the State Personnel Board. This document is included as an attachment to the Public Notice and is also available from the contact persons listed above.

**INITIAL STATEMENT OF REASONS:**

Currently, there are no regulations to implement the provisions of Government Code, Sections 19400–19403, 19405, and 19406, which require State agencies and departments to establish effective upward mobility programs and to annually set upward mobility goals for employees in low-paying occupations. These statutes alone do not provide needed procedural guidance necessary to comply with statutory requirements. The proposed regulations, and the incorporated by reference *Guidelines for Administering Departmental Upward Mobility Employment Programs*, revised July 25, 2000 (mandated by Government Code Section 19406), will provide this guidance and help ensure that upward mobility programs are administered consistently among agencies and departments.

Section 547.82 is proposed to define terms contained in the statutes cited above and other proposed regulations. The definition of "low-paying occupations" in the proposed regulation is needed to replace the definition that was eliminated from Government Code Section 19401 when it was recently amended. There is no intent to change the upward mobility eligibility of employees who were previously covered. Occupational group terminology has been updated to be consistent with current terminology used for the schematic grouping of classifications in the California Pay Scales and to be consistent with terminology used in other equal employment opportunity program areas.

The definition of "technical, professional, and administrative classifications" indicates the classifications in schematic occupational areas listed in the California Pay Scales to which employees in low paying occupations may aspire to advance.

Other definitions in the proposed regulations were developed based on a common understanding of the terminology used in the State civil service.

Section 547.83 requires that each department appoint a coordinator to coordinate, monitor, and report on its upward mobility program. A coordinator is needed to assign responsibility to help ensure that the department meets its statutory obligation to have an effective upward mobility program.

Section 547.84 requires each department to develop an upward mobility plan and specifies those elements to be included in the plan. The plan is needed for a department's upward mobility program to have the structure and direction required to be effective.

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Section 547.85 is needed to enumerate the requirements for announcing upward mobility opportunities and selecting employees for those opportunities

Section 547.86 is needed to provide technical direction to departments for establishing annual upward mobility goals as required by Government Code, Section 19402.

Section 547.87 requires the SPB to annually review each department's upward mobility goals and other program information and to provide a written response either approving or requiring modification to the department's upward mobility program. This is needed to provide feedback to departments regarding the effectiveness of their upward mobility programs and to facilitate improvement when called for.

*Guidelines for Administering Departmental Upward Mobility Employment Programs*, revised July 25, 2000, published by the State Personnel Board, contains the more detailed procedural directions for departments to implement the provisions of the above-cited statutes and the proposed regulations. This document has been proposed for incorporation by reference in its entirety based on the SPB's determination that it therefore would be impractical to publish this document in the California Code of Regulations.

LAURA M. AGUILERA, Chief  
Personnel Resources and Innovations Division

Attachments: Text of Proposed Regulations and *Guidelines for Administering Departmental Upward Mobility Employment Programs*, revised July 25, 2000